IN THE HIGH COURT OF BOMBAY AT GOA
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WRIT PETITION NO. 147 OF 2001

Shri Bhalchandra K. Apte,
aged 86 years, c/o Sanjay
Cholkar, House No.485/27,
Mitramandal Colony,
Parvati, Pune 411009,
represented herein by
his duly constituted
Power of Attorney, Shri
Madhukar R. Lokur, aged
64 years, r/o 486,
Shanivar Peth, Pune
411 030. ... Petitioner

Versus

1. Goa University,
through its Registrar,
having office at
Taleigao Plateau,
Bambolim, Goa,

2. State of Goa, through
its Chief Secretary,
having office at
Secretariat, Panaji, Goa,

3. University of Bombay,
through its Registrar,
having office at Fort,
Mumbai - 1, and

4. State of Maharashtra,
through its Chief Secretary,
having office at
Mantralaya,
Mumbai 400 032.
... Respondents.

Shri G. K. Sardessai, Amicus Curiae, for the petitioner.

Smt. A. A. Agni, advocate for respondent no.1.

Shri V. P. Thali, Addl. Advocate General with Ms. S. Linhares, Addl. Govt. Advocate for respondent no.2.

Shri P. A. Kamat, advocate for respondent no.4.

CORAM: V. C. DAGA &
P. V. HARDAS, JJ.

DATE: 26th June, 2002.

JUDGMENT (Per V. C. Daga, J.)

The petitioner, a person of 87 years of age, is struggling for the last more than 15 years to get his pension settled. Having lost all hopes of getting his pension settled, he invoked writ jurisdiction of this Court to seek directions against the respondents to finalize and settle his pension claim and to seek payment thereof; with interest thereon.

THE FACTS

2. The facts in brief are, the petitioner was appointed as Professor of History at the Centre of Post Graduate Institute & Research ('CPIR' for short), Panaji - Goa. On 3rd April, 1975, the petitioner attained the age of superannuation. However, the petitioner was granted extension upto 30th March, 1978.

3. On 21st July, 1983, under Government Resolution, pension scheme for college and university teachers, came to be introduced, with effect from 1st October, 1982. In terms of the said Government Resolution which was applicable to Bombay University and, consequently to CPIR, certain members of the teaching

faculty had filed petitions in the High Court; in terms of the decision delivered therein, the pension scheme was made applicable to the teachers of the colleges and universities, who retired even before 1st January, 1973. The petitioner being a person retired prior to 1st January, 1973, became eligible to claim pensionary benefits.

4. The petitioner, accordingly, had approached the Bombay University with a request for payment of pension vide his representation dated 28th August, 1993. The Bombay University vide its letter dated 6th October, 1993, called upon the petitioner to obtain his service book from CPIR, Goa, so as to process his pension claim. However, at a subsequent stage, the Bombay University realized that the responsibility for payment of pension lies with the Goa University. The petitioner was, therefore advised to approach the Goa University.

5. The petitioner accordingly approached Goa University and requested for settlement of his pension. However, by communication dated 14th January, 1979, the Goa University informed the petitioner that as per the agreement dated 9th June, 1987, between the Bombay University and the Goa University, the latter has taken over the liability of Ex-CPIR staff with effect from 1st June, 1985. Since the petitioner had retired with effect

from 3rd April, 1975, i.e. prior to lst June, 1985, his case was required to be considered, dealt with and settled by the University of Bombay. The petitioner accordingly, again approached the Bombay University. The petitioner was again informed by the Bombay University vide communication dated 12th February, 1999, that the responsibility for award of pensionary benefits to the petitioner lies with the State of Goa, in terms of Government Resolution dated 20th June, 1990. The said communication further made a reference to the case of one Professor Shri D. B. Wagh, who was given such benefit extending the benefit of the Government Resolution dated 20th June, 1990. The petitioner armed with the communication dated 12th February, 1999, again approached the Goa University on 16th April, 1999 and submitted his pension papers. On this occasion the petitioner was informed that his pension papers are being processed and the same would be forwarded to the Directorate of Accounts, State of Goa, the authority authorized to process pension claims. However, the case of the petitioner remained unsettled. The petitioner by way of last resort addressed one communication to the Hon'ble Chief Minister of the State of Goa, vide his letter dated 11th December, 2000.

6. The petitioner was informed by the Registrar of the Goa University vide letter dated 10th January,

2001, that his pension case, could not be finalized for want of his service book, with respect to his services rendered at Elphinstone College, Bombay, during the period from 20th June, 1947 to 19th June, 1948. The petitioner made the said requirement good. Inspite of compliance of all the formalities, the pension claim of the petitioner was not processed by the Goa University. Left with no other alternative, the petitioner, in the above circumstances, at the age of 87 years was required to approach this Court.

7. On being noticed, the respondents appeared and filed their respective affidavits in reply and tried to oppose the petition on merits.

THE SUBMISSIONS

8. The petitioner contended that the petitioner fulfils all the conditions laid down by the Government of Goa in its Order dated 20th June, 1990 read with Addendum dated 15th November, 1996, and the question of eligibility of the petitioner to claim pensionary benefits from the Goa University is no longer open for debate. These orders provide for pensionary benefits to the Ex-CPIR employees who retired from 1st January, 1973, onwards. It was also

pointed out to us that these orders specifically mention that the entire earlier period of service rendered in Maharashtra and Goa has to be treated as qualifying service for computation of pension benefits. The petitioner submitted that the petitioner has retired as Professor of History, CPIR, Panaji – Goa, when it was affiliated to the Bombay University. At the relevant time, the Union Territory of Goa, Daman and Diu did not have any University of its own and all colleges were affiliated to the University of Bombay. For the purpose of post-graduate education, the Bombay University had established the CPIR which was functioning as the Department of the Bombay University. The Government of Goa, however, reimbursed the entire expenditure to the Bombay University, as is clear from clauses no.2 and 3 of the agreement dated 9th June, 1987, placed on record. The Government of Maharashtra vide Government Resolution dated 21st July, 1983, introduced a pension scheme for college and University teachers with effect from lst October, 1982. In terms of the said Government Resolution which was applicable to the Bombay University and consequently to the CPIR, the pension scheme became available to the teachers in colleges and universities. Subsequently, by Government Resolution dated 3rd August, 1996, the pension scheme was made applicable even to the teachers who retired prior to 1st January, 1973. The Bombay University had also informed the petitioner on l2th February, 1999,

that the responsibility of paying pensionary benefits lies with the State of Goa as the CPIR was financed by that Government and also pointed out that the Goa University has finalized such similar pension case of one Dr. Wagh in accordance with Order dated 20th June, 1990. In this backdrop, petitioner is claiming settlement of his pension case and pensionary benefits from the respondents no.1 and 2, hence this petition.

9. The respondents no.1 and 2 while opening their arguments to oppose this petition initially tried to resist this petition, but could not take their submissions to the logical end. After having heard the petitioner and after having brought to their notice the Order dated 20th June, 1990, particularly para 5 of the said Order, read with order-cum-clarification dated 15th November, 1996, all the respondents by and large found that the petitioner's case can be said to be covered under the said orders. The respondents no. 1 and 2 finding it difficult to support their actions faintly submitted that in the event the petition is allowed, the respondents shall process the pension papers of the petitioner within two weeks from the date of the Order of this Court.

10. Having heard and considered the rival submissions advanced and having noticed that the claim of the petitioner is fully covered by para 5 of the Order of

the Government of Goa, dated 20th June, 1990, read with order dated 15th November, 1996 and considering the absence of serious contest on this issue, we are of the opinion that the petitioner would be entitled for the relief claimed in the petition. Since there is no serious contest about the entitlement of the petitioner and liability of the respondents no.1 and 2, with respect to the pension claim of the petitioner, we do not consider it necessary to record our detailed reasons in support of the relief granted to the petitioner herein.

11. At this juncture, it will not be out of place to mention that pension is not a charity or bounty, nor it is gratuitous payment of salary dependent on the whim or sweet will of the employer or pleasure of the Government. It is assumed that rendering long service is often described as deferred portion of compensation for past service. It is, in fact, in the nature of social security plan to provide for december of life of a superannuated employee. Such social security has been devised keeping in mind the socio-economic requirements of the Constitution of India. It is a property in their hands and a valuable right and any delay in settlement and disbursement thereof must be visited by penalty of interest at the current market rate, till actual payment. Since, in this case, the question of interpretation of the Government Orders was involved, we

do not propose to award interest and penalty. However, we make it clear that failure on the part of the respondents no.1 and 2 to comply with the directions issued in this judgment will make them liable to pay penalty by way of interest. Respondents no.1 and 2 in the above premise are directed to process the pension papers of the petitioner.

12. The respondents no.1 and 2 are hereby directed to process the pension papers of the petitioner within three weeks from the date of this Order and are further directed that all the relevant papers, including service book of the petitioner, be forwarded to the office of the Assistant Accounts Officer, of respondent no.2, within three weeks from the date of this Order, who shall within five weeks from the receipt of the relevant papers, work out the pension payable to the petitioner with effect from 30th June, 1978, in terms of the Order dated 20th June, 1990, read with Addendum dated 15th April, 1990. Thereafter the respondents no.1 and 2 shall release the pension of the petitioner within one month (with all arrears), failing which the petitioner shall be entitled to claim interest at the rate of 18% per annum on the entire arrears from the date of this Judgment till payment thereof.

13. Rule is made absolute in terms of this Order. The respondent no.1, Goa University, Goa shall

bear the costs of this petition quantified in the sum of Rs.5,000/- (rupees five thousand) only.

14. We place our appreciation for the assistance provided by Shri G.K. Sardessai, as Amicus Curiae and direct that the sum of Rs.1,500/- (rupees one thousand five hundred only) towards the professional charges of Shri Sardessai, be paid to him within two weeks from the date of this Judgment.

V. C. DAGA,J.

P. V. HARDAS, J.